

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-26832-2020

Date of decision:05.11.2020

Zile Singh and others

...Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Amit Choudhary, Advocate for the petitioners.
Mr. Ramesh Kumar Ambavta, AAG, Haryana.
Mr. Mohit Bishnoi, Advocate for the complainant.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Through this petition, the petitioners seek anticipatory bail in case bearing FIR No.94 dated 27.02.2020 registered under Sections 148,149,323,324,506 IPC, Sections 326,307,379-A IPC and Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 added subsequently, at Police Station City Fatehabad, District Fatehabad.

On 25.09.2020, a Coordinate Bench of this Court passed the following order:-

“Hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

The petitioners pray for grant of pre-arrest bail in a criminal case arising from FIR No.94, dated 27.02.2020, registered under Sections 148/149/323/324/506 IPC (Sections 326/307/379-A IPC and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 added later on), at Police Station City Fatehabad, District Fatehabad.

In a nutshell, the case of the prosecution has been noticed by the learned Additional Sessions judge, Fatehabad, in

paragraph 2 of its order dated 01.09.2020, which is extracted as under:-

“2. As per police reply, complainant Kartar Singh stated to the police that on the morning of 26.02.2020, at about 9.30 A.M., Nathu son of Ram Chander (co-accused of the present petitioners) had inflicted him a spade blow as he (complainant) had refused to give him two boxes of soap on credit. In the meantime, co-accused Ram Chander, Balwant, present petitioner Suresh, co-accused Gulab and 2-3 other persons came there and gave him lathi and danda blows. The assailants also gave beatings to his sons Banti and Atma. During investigation, on 07.03.2020, statement of Atma Ram son of complainant Kartar Singh was recorded, who, besides stating version given in the FIR, also alleged that the assailants had abused them in caste name. Thereupon section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereafter referred to as “SC/ST Act”, for short) was added. Further investigation was carried by the DSP, Fatehabad. Possibility of injury No.1 on the person of injured Atma Ram being dangerous to life was opined, whereupon section 307 of IPC was also added in this case. Section 379-A of IPC was also added. CCTV footage was collected. Coaccused Balwant Singh son of Ram Chander was arrested. As per CCTV footage petitioners Zile Singh and Raj Kumar were also found involved along with named petitioner Suresh Kumar. The petitioners are sought to be arrested.”

There is no dispute that the petitioners-Zile Singh and Raj Kumar, are not named in the FIR. With regard to petitioner no.3-Suresh Kumar, he is alleged to be armed with a wooden stick and had caused injury to Bunty, which has been declared as simple.

On 23.09.2020, after noticing the contention of the learned counsel for the petitioner, the following order was passed:-

“Learned counsel for the petitioners has submitted that in the present case provisions pertaining to Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Act') added subsequently but no case was made out prima facie under Section 3 of the aforesaid Act. He has further submitted that bar which is contained under Section 18 and 18-A of the Act for grant of anticipatory bail is not absolute. He has further submitted that even in the CCTV footage also he was not seen.

Notice of motion for 25.09.2020.

On asking of the Court, Mr. Naveen K. Sheoran, DAG, Haryana accepts notice on behalf of the State and prays for an adjournment to get instructions in this regard.

Learned counsel for the petitioners has undertaken to supply a copy of the petition to learned State counsel today itself.”

Keeping in view the aforesaid facts, let the petitioners join the investigation.

Adjourned to 15.10.2020.

In the meantime, in the event of arrest, the petitioners shall be released on interim bail subject to furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioners shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.”

Learned counsel for the petitioners submits that pursuant to the

order dated 25.09.2020 passed by a Coordinate Bench of this Court, the petitioners have joined the investigation.

Learned State counsel, on instructions from DSP Daljit Singh, submits that the petitioners have joined the investigation and are not required for any further investigation.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the order dated 25.09.2020 passed by a Coordinate Bench of this Court granting interim bail to the petitioners, is made absolute, subject to the conditions laid down in Section 438 (2) of the Code of Criminal Procedure.

05.11.2020

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(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No